



U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101
AUG 24 1988

Wayne
WA 9946
4c
8/24/88

REPLY TO
ATTN OF:

HW-112

Marc Horton, Director of Programs
Washington Department of Ecology
Mail Stop PV-11
Olympia, Washington 98504-8711

Re: FY'88 Compliance Inspection of Boeing Developmental Center

Dear Mr. Horton: *blue*

Enclosed is a copy of our proposed Notice of Violation against the Boeing Developmental Center facility located in Kent, Washington. This action is based on our contractor inspection performed on March 24, 1988, wherein a number of violations of state and federal hazardous waste requirements were observed. Most notable, were deficiencies in the facility's closure and contingency plans.

Although this action is not formally subject to the prior notice to state requirement under Section 3008(a)(2) of RCRA, please let this letter serve as advance notice of our proposed action.

We hope to work closely with your staff if follow-up action is required in this matter and are available to discuss this or other matters of environmental concern with you if you so desire.

Sincerely,

Charles
Charles E. Findley, Director
Hazardous Waste Division

Enclosure

cc: Julie Seleck, Ecology - Northwest Region

FILE COPY

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

IN THE MATTER OF THE:)
)
ENVIRONMENTAL PROTECTION AGENCY,)
Region 10)
Complainant,)
)
vs)
)
Boeing Developmental Center)
Seattle, Washington)
EPA I.D. #WAD093639946)
Respondent.)
_____)

NOTICE OF VIOLATION AND
COMPLIANCE SCHEDULE

I. INTRODUCTION

A. This NOTICE OF VIOLATION and COMPLIANCE SCHEDULE (hereinafter "Notice"), is issued under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, (RCRA) and further amended by the Hazardous and Solid Waste Amendments. The Complainant is Environmental Protection Agency (EPA) Region 10 (hereafter "Complainant" or "EPA").

B. Pursuant to RCRA §3008(a), 42 U.S.C. §6928(a), EPA is authorized to take enforcement action regarding occurrences within states (those granted authority to manage hazardous waste under RCRA §3006, 42 U.S.C. §6926) which constitute violations of any requirement of the applicable federally approved or authorized state program. Noncompliance with the Washington Administrative Code Section 173-303-400 constitutes a violation of the state of Washington's authorized program, and also constitutes a violation of the federal requirements of RCRA Subtitle C, 42 U.S.C. §6921 et seq.

1 C. EPA has complied with the state notification requirements of RCRA
2 §3008(a)(2), 42 U.S.C. §6928(a)(2) as they apply to this Notice.

3 D. Complainant is issuing this Notice to the Boeing Developmental Center
4 (hereinafter "Respondent") as a result of an inspection on March 24, 1988,
5 which provides evidence that Respondent has violated or is in violation of one
6 or more requirements of Subtitle C of RCRA and the regulations promulgated
7 thereunder concerning the management of hazardous waste.

8 E. Any person, as defined in Section 1004(15) of RCRA, who has violated
9 or is violating any requirement of Subtitle C of RCRA or who knowingly
10 violates any material condition or requirement of a RCRA permit or interim
11 status regulations or standards may be subject to administrative, civil and/or
12 criminal sanctions under Section 3008. In addition, Section 7002 of RCRA
13 provides for citizens suits against any person who is alleged to be in
14 violation of any permit, standard, regulation, condition, requirement,
15 prohibition or final order of RCRA.

16 F. In order to return to compliance, Respondent must implement the
17 actions prescribed in Section IV of this Notice within the timeframes
18 stipulated.

19 II. FINDINGS OF FACT

20 G. On or about August 6, 1980, Respondent submitted its Notification of
21 Hazardous Waste Activity under Section 3010 of RCRA identifying itself as a
22 generator and owner/operator of a treatment, storage and disposal of hazardous
23 waste at its facility. Under Section 3005(e) of RCRA, Respondent submitted
24 its Part A permit application on November 11, 1980, identifying storage of
25 hazardous wastes in tanks and containers as the management processes at its
26 facility.

1 H. On March 24, 1988, EPA conducted a compliance inspection at
2 Respondent's facility to determine the extent to which Respondent was
3 complying with applicable requirements of the Act and the regulations
4 promulgated thereunder.

5 I. As described in a June 30, 1988 report of the March 24, 1988
6 compliance inspection, the following observations were made by EPA, of
7 Respondent's compliance with the federal hazardous waste management
8 requirements in effect in the state of Washington:

9 (1) The Main Storage Area located near Building 9-60 did not have a
10 warning sign, as required at 40 CFR §265.14(c) which is equivalent in
11 this instance to WAC 173-303-310(2)(a), posted at each entrance into the
12 facility.

13 (2) As reported by Company representatives, all personnel engaged
14 in hazardous waste handling at the facility did not successfully complete
15 a program of training in hazardous waste management as required at 40 CFR
16 §265.16(a)(1) which is equivalent in this instance to WAC 173-303-330(1).

17 (3) No arrangements were made with local police, fire departments
18 or emergency response teams concerning the layout of the facility,
19 properties of hazardous wastes handled at the facility and associated
20 hazards, as required at 40 CFR §265.37(a) which in this instance is
21 equivalent to WAC 173-303-340.

22 (4) The contingency plan for the facility did not include an
23 evacuation plan as required at 40 CFR §265.37(f) which in this instance
24 is equivalent to WAC 173-303-350(3)(f).

25 (5) The closure plan for the facility did not identify the steps
26 necessary to close the facility during partial and final closure. More
27 specifically, a detailed description of methods which will be employed
28

1 for removing, transporting, treating, storing, disposing of hazardous
2 waste remaining in the storage units at time of closure is not included
3 in the plan, nor does the plan provide a detailed description of the
4 steps needed to remove or decontaminate all hazardous waste residues and
5 contaminated equipment, nor is a detailed description of other activities
6 (e.g., leachate collection, run-off and run-on control, etc) provided in
7 the plan, all in violation of 40 CFR §265.112(b) which is incorporated by
8 reference at WAC 173-303-400(3)(a).

9 (6) A container of F002 hazardous waste which is restricted from
10 land disposal was observed in storage without an accumulation date which
11 is required at 40 CFR §268.50(a)(2)(i). As this requirement is
12 promulgated under the 1985 Hazardous and Solid Waste Act Amendments to
13 RCRA for which the state of Washington has not been authorized, no
14 corresponding state citation is provided.

15 III. CONCLUSIONS OF LAW AND DETERMINATION

16 J. Respondent is an operator of a "facility" within the meaning of
17 Section 3008 of RCRA, 42 U.S.C. §6928, which has operated subject to 3005(e)
18 of RCRA, 42 U.S.C. §6925(e).

19 K. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42
20 U.S.C. §6903(15), and within the meaning of Section 3008 of RCRA, 42 U.S.C.
21 §6928.

22 L. As set forth in the paragraphs above, Respondent has violated those
23 state of Washington regulations set forth at WAC-173-303- 310(2)(a),
24 WAC-173-303-330(1), WAC-173-303-340, WAC-173-303-350(3)(f) and
25 WAC-173-303-400(3)(a) which are equivalent to federal regulations set forth at
26 40 C.F.R. §§ 265.14(c), 265.16(a)(1), 265.37(a), 265.37(f), and 265.112(b)

1 respectively. Further, Respondent has violated the federal regulation set out
2 at 40 CFR §268.50(a)(2)(i). Therefore, Respondent has violated Section 3004
3 of RCRA, and those specified regulations promulgated thereunder.
4

5 IV. COMPLIANCE SCHEDULE

6 M. Immediately upon receipt of this Notice Respondent should date and
7 mark all containers which contain wastes subject to land disposal restrictions
8 in accordance with the requirement(s) set forth at 40 CFR §268.50(a)(2)(i).

9 N. Within 15 days of receipt of this Notice, Respondent should obtain
10 and post warning signs at each entrance to its facility in accordance with WAC
11 173-303-310(2)(a).

12 O. Immediately upon receipt of this Notice, Respondent should institute
13 procedures to correct those deficiencies and/or violations noted concerning
14 Respondent's Contingency Plan and Closure Plan and should within 30 days of
15 the date of this Notice submit to EPA and the Washington Department of
16 Ecology, its revised facility Contingency Plan and Closure Plan which should
17 both be developed in accordance with applicable state and federal regulations
18 and fully address those deficiencies identified in the above Findings.

19 P. Within 30 days of Respondent's receipt of this Notice, Respondent
20 should submit to EPA, documentation demonstrating its compliance with the
21 personnel training requirements set out at WAC 173-303-330(1).
22

23 V. REPORTING

24 Q. Plans, reports and other correspondence submitted by Respondent
25 pursuant to this Notice should be sent to: Charles W. Rice, Chief, RCRA
26 Compliance Section (HW-112), EPA Region 10, 1200 Sixth Avenue, Seattle,
27 Washington 98101.
28

1 VI. CONTINUED NONCOMPLIANCE

2 R. Failure to remedy those existing violations described in the above
3 Findings and Conclusions of Law and/or failure to comply with the applicable
4 rules and regulations for hazardous waste management may result in EPA
5 pursuing more formal enforcement remedies pursuant to Section 3008 of RCRA and
6 may subject Respondent to a maximum penalty of \$25,000.00 per day per
7 violation.

8 SIGNATURE

9
10 DATED this August 24 day of _____, 1988.

11
12 Charles E. Findley
13 Charles E. Findley, Director
14 Hazardous Waste Division
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